



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2734-99

13 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 20 January 1968 at the age of 19. Your record reflects that you served for a year and two months without disciplinary incident but on 7 April 1969 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. The punishment imposed was restriction for seven days. On 7 October 1969 you received NJP for absence from your appointed place of duty and failure to obey a lawful order. The punishment imposed was reduction to paygrade E-2. Shortly thereafter, on 4 December 1969, you received your third NJP for absence from your appointed place of duty and failure to obey a lawful order. The punishment imposed was forfeitures totalling \$25 and extra duty for seven days.

Your record further reflects that on 24 February 1970 you were convicted by civil authorities of robbery and sentenced to confinement for eight years. On 4 June 1970 you were notified of pending administrative separation action by reason of misconduct due to civil conviction. After consulting with legal counsel you elected to present your case to an administrative discharge board (ADB). On 23 September an ADB recommended you be issued an other

than honorable discharge by reason of misconduct due to civil conviction. Subsequently, the discharge authority approved the foregoing recommendation and on 13 January 1971 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. The Board also considered your contention that your civil conviction did not warrant a discharge and you completed the civil conviction sentence. However, the Board concluded these factors were not sufficient to warrant a change in the characterization of your discharge because of the serious nature of your frequent misconduct in both the military and civilian communities. Given all the circumstances of your case, the Board concluded your discharge proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director